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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/795,891	03/08/2004	Ryan Cameron Lakin	14977-0006	1521
25267 7590 07/17/2007 BOSE MCKINNEY & EVANS LLP JAMES COLES 135 N PENNSYLVANIA ST SUITE 2700 INDIANAPOLIS, IN 46204			EXAMINER HOFFMAN, MARY C	
			ART UNIT 3733	PAPER NUMBER
			MAIL DATE 07/17/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

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## Office Action Summary

Application No.

10/795,891

Applicant(s)

LAKIN ET AL.

Examiner

Mary Hoffman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 April 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-42 and 60-73 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-42 and 60-73 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>09/07/2004, 09/07/2004</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Election/Restrictions*

Applicant's election of Group I, claims 1-42 and 60-73 in the reply filed on 04/27/2007 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claims 43-59 are cancelled by Applicant. Election was made **without** traverse in the reply filed on 04/27/2007.

### *Information Disclosure Statement*

Applicant should note that the large number of references in the attached IDS have been considered by the examiner in the same manner as other documents in Office search files are considered by the examiner while conducting a search of the prior art in a proper field of search. **See MPEP 609.05(b)**. Applicant is requested to point out any particular references in the IDS which they believe may be of particular relevance to the instant claimed invention in response to this office action.

### *Drawings*

New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because the drawings are informal and difficult to read/understand. Applicant is advised to employ the services of a competent patent draftsman outside

the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

### ***Claim Objections***

Claims 60-71 are objected to because of the following informalities:

The preamble of claim 60 ("A cutting block...") is inconsistent with the preambles of dependent claims 61-71 ("The system of claim 60...").

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-42 and 60-73 are rejected under 35 U.S.C. 103(a) as being unpatentable over Duvillier et al. (U.S. Patent No. 5,749,876)

Duvillier et al. disclose a system (FIG. 3) for cutting a bone at a desired location, a cutting block having a frame, a first guide adjustably connected to the frame, a first adjustor connected to the frame, and a first mounting location defined by the frame and configured to attach to the bone at the target location, the first guide defining a first cutting path having a position, the position of the first cutting path relative to the first

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mounting location being adjustable using a grip of the first adjustor. The cutting block frame includes a plurality of channels configured to support the first guide and accommodate movement of the first guide during adjustment of the first cutting path. The first guide includes a pair of substantially parallel guide walls extending between a pair of end portions, the guide walls and the end portions defining the first cutting path. The first mounting location includes a bore defined by the frame. The frame defines a second mounting location, the first mounting location and the second mounting location being located on an attachment wall of the frame. The frame further includes a mounting plate coupled to the frame to accommodate linear adjustment of the position of the first cutting path. The mounting plate is further configured to accommodate angular adjustment of the first cutting path. The mounting plate includes an arcuate channel for supporting a post connected to the first guide, the arcuate channel defining a path of angular adjustment of the first cutting path. The cutting block further includes a second guide defining a second cutting path having a position, the position of the second cutting path relative to the first mounting location being adjustable. The position of the second cutting path relative to the first mounting location is adjustable using a second grip of the first adjustor. Use of the second grip causes linear adjustment of the position of the second cutting path. The cutting block further includes a second adjustor having a grip, use of the second adjustor grip causing angular adjustment of the position of the second cutting path. The position of the second cutting path relative to the first mounting location is adjustable using a grip of a second adjustor. The frame includes a first end wall, a second end wall, a first sidewall extending between the end walls, and a

second sidewall extending between the end walls. The first guide is connected between the sidewalls adjacent the first end wall. The cutting block further includes a second guide defining a second cutting path, the second guide being adjustably connected to the frame between the sidewalls. The cutting block further includes a third guide defining a third cutting path, the third guide being adjustably connected to the frame between the sidewalls. The cutting block further includes a fourth guide defining a fourth cutting path, the fourth guide being adjustably connected to the frame between the sidewalls adjacent the second end wall. The second guide and the third guide are positioned between the first guide and the fourth guide. The second guide is positioned between the first guide and the first mounting location and the third guide is positioned between the fourth guide and the first mounting location. The position of first guide is adjustable linearly relative to the first mounting location using the first adjustor. The cutting block further includes a second adjustor, a third adjustor, and a fourth adjustor, the first guide and the second guide being adjustable linearly relative to the first mounting location using the first adjustor, the second guide being adjustable angularly relative to the first mounting location using the second adjustor, the third guide and the fourth guide being adjustable linearly relative to the first mounting location using the third adjustor, and the third guide being adjustable angularly relative to the first mounting location using the fourth adjustor.

Duvillier et al. disclose the claimed invention except for a drill cylinder having a handle and a central bore and an array of elements configured to be detected by an

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image guidance system, a receiver, a processor coupled to the receiver, and tracking instruments.

Kienzle, III et al. disclose a drill cylinder (FIG. 1) having a handle and a central bore and an array of elements configured to be detected by an image guidance system, a receiver, a processor coupled to the receiver, and tracking instruments for accurate positioning of a drill in a body part (Abstract).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to construct the system of Duvillier et al including a drill cylinder having a handle and a central bore and an array of elements configured to be detected by an image guidance system, a receiver, a processor coupled to the receiver, and tracking instruments in view of Kienzle, III, et al. for accurate positioning of a drill in a body part.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mary Hoffman whose telephone number is 571-272-5566. The examiner can normally be reached on Monday-Friday 9:00-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eduardo C. Robert can be reached on 571-272-4719. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



EDUARDO C. ROBERT  
SUPERVISORY PATENT EXAMINER